THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4401 of 2007

Dated:06.03.2007

Between:

M.R. Sadasivappa @ M.R. Sivanna and others.

…PETITIONERS

AND

The District Collector, Ananthapur District, and others.

…RESPONDENTS

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ORDER:

The three petitioners allege that their grandfather Mysoorappa @ Maheswarappa purchased land admeasuring Acs.3.30 in survey No.484/1 situated at Sreekantapuram Village, Hindupur, some six decades ago. The petitioners succeeded to the property and they were in possession of the property. They further allege that when third respondent tried to encroach upon their land, they filed O.S.No.75 of 2005 on the file of the Court of the Principal Senior Civil Judge, Hindupur, for perpetual injunction and also filed I.A.No.317 of 2005 against the District Collector and I.A.No.318 of 2005 against respondents 3 and 4 praying for *ad interim* injunction. These applications were dismissed on 06.02.2006 by a common order. The petitioners then filed an appeal, being C.M.A.No.3 of 2006, on the file of the Court of the Additional District Judge, Hindupur, which is pending. In the meanwhile second respondent proposed to assign the land to working journalists and sought legal opinion from the Assistant Government Pleader, who agreed with the proposal. Apprehending that they might be dispossessed from their land, the petitioners filed instant writ petition seeking a direction restraining the respondents from interfering with their possession.

The matter was listed yesterday and the same was adjourned to enable the learned Assistant Government Pleader for Revenue (General-A) to get instructions in the matter. Today, the learned

counsel for the petitioners submits that when the appeal before the District Court is pending, it is improper for second respondent to propose assignment in favour of working journalists. After getting instructions, the learned Assistant Government Pleader submits that the entire extent of land in survey No.484 is Acs.12.28, that on a request made by third respondent for alienation of land to an extent of Acs.10.30 for the benefit of its members as house plots, the Government allotted said extent land, vide orders in G.O.Ms.No.794 dated 28.07.1992, which was subdivided as survey No.484/2, and that the balance land admeasuring Ac.1.98 is in possession of the Government and the petitioners are not in possession of the same. The learned Assistant Government Pleader also points out that having failed to obtain *ad interim* injunction in I.A.Nos.317 and 318 of 2005, the petitioners filed instant writ petition and therefore, he contends that the writ petition is not maintainable.

With the assistant of the learned Assistant Government Pleader, this Court has perused the common order dated 06.02.2006 of the learned Senior Civil Judge, Hindupur, in I.A.Nos.317 and 318 of 2005. After considering the documentary evidence, the learned Senior Civil Judge in para 14 of the order observed as under.

> To prove possession, the respondents relied on Ex.B3 the true copy of adangal dated 8-11-05. On perusal of Ex.B3 the land in S.No.484/1 an extent of 1-98 cents described as government assessed waste land. Another 10-30 cents S.No.484/2 described this land of government and the registered owner is NGOs house sites. The case of the respondents is that originally the government owned 12-28 cents in S.No.484 and out of this the government sold for market value to R1 society in I.A.318/05 an extent of 10-30 cents by effecting sub division of 484 as sub letters 1 and 2 and delivered possession 10-30 cents under 484/2 to R1 society and ever since then the society is in possession and enjoyment and whereas the remaining 1-98 cents in S.No.484/1 is the government assessed waste land. Ex.B3 corroborated the version of the respondents and belied the case of the petitioners. In the light of the aforesaid discussion the petitioners prima facie failed to establish their possession over the suit land. It is clear from the above discussion the petitioners failed to establish the prima facie case.

No doubt an appeal is filed by the petitioners before the learned Appellate Court. However, pending the appeal, they were not able to

get appropriate interim orders and therefore, unless and until the order of the learned Senior Civil Judge is set aside, observations made in said order extracted hereinabove would hold good. When the petitioners were not in possession of the land and there is also a cloud on the title of the petitioners as found by the learned Senior Civil Judge, there cannot have any grievance if balance land of Ac.1.98 in survey No.484/1 is proposed for assignment to working journalists. The remedy of the petitioners is to pursue their appeal, being C.M.A.No.3 of 2006, before the learned Additional District Judge, Hindupur.

In this writ petition, no relief can be granted. Therefore, the writ petition is dismissed. No costs.

(V.V.S.RAO, J)

06th March, 2007
ghn